

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION
No. 7:14-CR-26-D
No. 7:17-CV-27-D

CEDRIC ANTOINE MCKENITH,)
)
Petitioner,)
)
v.)
)
UNITED STATES OF AMERICA,)
)
Respondent.)

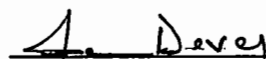
ORDER

On February 15, 2017, Cedric Antoine McKenith moved to vacate, set aside, or correct his 180-month sentence [D.E. 116]. On May 1, 2017, the government moved to dismiss McKenith's motion [D.E. 120] and filed a memorandum in support [D.E. 121]. On June 9, 2017, McKenith moved to withdraw his section 2255 motion [D.E. 125].

A plaintiff may dismiss an action without court order by filing a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment. See Fed. R. Civ. P. 41(a)(1)(A)(i). The court may dismiss an action at plaintiff's request on terms that the court considers proper. See Fed. R. Civ. P. 41(a)(2).

The court construes McKenith's motion to withdraw as a motion to dismiss his section 2255 motion [D.E. 125]. The motion [D.E. 125] is GRANTED, and McKenith's motion to vacate [D.E. 116] is DISMISSED. The government's motion to dismiss [D.E. 120] is DISMISSED as moot. The court DENIES a certificate of appealability. See 28 U.S.C. § 2253(c); Miller-El v. Cockrell, 537 U.S. 322, 336–38 (2003); Slack v. McDaniel, 529 U.S. 473, 483–84 (2000).

SO ORDERED. This 11 day of December 2017.


JAMES C. DEVER III
Chief United States District Judge